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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/606,664

06/26/2003

Michael Nally

57471/03-012

4708

22206

7590

09/20/2004

FELLERS SNIDER BLANKENSHIP
BAILEY & TIPPENS
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EXAMINER

WAMBACH, MARGARET R

ART UNIT

PAPER NUMBER

2816

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,664

Applicant(s)

NALLY ET AL.

Examiner

Margaret R Wambach

Art Unit

2816

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 11 and 13 is/are rejected.
- 7) ☒ Claim(s) 8, 10 and 12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/14/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 7, 9, 11 and 13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Poulson.

Figure 1 of Poulson teaches a portable device as recited in claim 1 comprising an attachment module (16, 20 and 24) for removably connecting to a wearer (the clip connects it to the wearer yet it is removable) and a display module (cell phone case 10 and the display of the telephone mentioned on column 1, lines 55-59) defining a window for displaying information (cell phone cases have windows for at least displaying the selection buttons of the numeral pad as confirmed by column 1, lines 55-58) wherein said display module is extendably and retractably (the leash cord extends and retracts) connected to said attachment module (the leash cord is connected to its housing, 16.)

With regard to claim 11 and with reference to Figure 1, Poulson teaches a method of viewing a display of a portable device including securing an attachment module to a wearer (26 clips to the wearer), grasping a display module (10 and the display of the telephone mentioned on column 1, lines 55-59) and imparting a separating force to said display module to pull said display module away from said attachment module (as is made clear by column 2, lines 5-10, the phone case 10 can

Art Unit: 2816

be grasped and, with a separating force, pulled away from the attachment module 16, 20, 24 and 26), playing out a line (again, please see column 2, lines 5-10), viewing a display on said display module (the specification of Poulson includes disclosure of a cell phone that would fit into the case in column 1, lines 55-62 and all cell phones include a display so the same is inclusive within the Poulson disclosure though not expressly mentioned or, alternatively, a keypad may be viewed as a 'display' of numbers) and taking up the played out line upon returning the display module to a position proximate the attachment module wherein a biasing force maintains said display module in proximity to said attachment module when said display is released by said wearer (again, please see column 2, lines 5-10.)

With regard to claims 7 and 13, the display module defines a protrusion (14) and the attachment module defines a receptacle (22) shaped for mating engagement (22 goes through the hole defined by 14) with said protrusion, said protrusion and said mating receptacle shaped for substantially preventing relative movement between the display module and the attachment module when both are in a retracted position (14 and 22 prevent the modules from separating, including movement away from each other in a lateral direction and this quality holds true when the device is in the retracted position.)

With regard to claim 9, the attachment module (16) houses a spool (wound leash 19) for housing a cable when said display module and said attachment module are in a retracted position (the spool is wound up inside the attachment housing when in the

Art Unit: 2816

retracted position;) and said spool is biased in a winding direction by a biasing member (spring 25 which causes the leash to retract.)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poulson as applied to claims 1, 7, 9, 11 and 13 above, and further in view of Kim et al (hereafter "Kim").

Poulson includes all of the limitations of claim 1, from which claim 3 depends, as detailed in the foregoing rejection under 35 USC 102(b). What is not taught by Poulson that is recited in claim 3 is a button for illuminating a light acting on said information displayed in said window. These features are taught by Kim. (Please see the abstract.) In order to produce the claimed invention, the case of Poulson must be altered simply by inserting inside of it the cell phone taught by Kim including a button for illuminating the information displayed in the window. Motivation for such a change is taught by the fact that the stated intent of Poulson is for carrying a cell phone such as that taught by Kim.

Poulson includes all of the limitations of claim 1, from which claim 4 depends, as detailed in the foregoing rejection under 35 USC 102(b). What is not taught by Poulson that is recited in claim 4 is a button for changing a display mode of said information

Art Unit: 2816

displayed in said window. These features are taught by Kim insofar the illumination button changes the mode of Kim's cell phone from unilluminated to illuminated. (Please see the abstract.) In order to produce the claimed invention, the case of Poulson must be altered simply by inserting inside of it the cell phone taught by Kim including a button for illuminating the information displayed in the window. Motivation for such a change is taught by the fact that the stated intent of Poulson is for carrying a cell phone such as that taught by Kim.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Poulson as applied to claims 1, 7, 9, 11 and 13 above, and further in view of Ryu.

Poulson includes all of the limitations of claim 1, from which claim 5 depends, as detailed in the foregoing rejection under 35 USC 102(b). What is not taught by Poulson that is recited in claim 5 is displaying said information on an LCD display. This feature is taught by Ryu (Please see column 2, lines 35-36.) In order to produce the claimed invention, the case of Poulson must be altered simply by inserting inside of it the cell phone taught by Ryu. Motivation for such a change is taught by the fact that the stated intent of Poulson is for carrying a cell phone such as that taught by Ryu.

Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poulson as applied to claims 1, 7, 9, 11 and 13 above, and further in view of Toyooka.

Poulson includes all of the limitations of claim 1, from which claims 2 and 6 depend, as detailed in the foregoing rejection under 35 USC 102(b). What is not taught by Poulson that is recited in claims 2 and 6 is that the window for displaying information is visible through the top cover and that the top cover defines a window for displaying

Art Unit: 2816

information. These features are taught by Toyooka insofar as Toyooka teaches that the top cover of its cell phone case is transparent, forms a window and a type of cell phone having a display on top is utilized (Please see column 5, lines 48-52.) In order to produce the claimed invention, the case of Poulson must be altered simply by providing a transparent window on its top cover and inserting inside of it a cell phone having its display on top as taught by Toyooka. Motivation for such a change is taught by the fact a transparent top with a display underneath it allows the display to be protected by a cover while allowing the user to view a phone number for instance at a glance without removing the cell phone from its case if it is carried on the waist band.

Allowable Subject Matter

Claims 8,10 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kagel and Sutton et al are relevant to the present invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret R Wambach whose telephone number is (571)272- 1756. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday 6am-4:30pm.

Art Unit: 2816

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Callahan can be reached on (571)272-1740. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Margaret R Wambach
Primary Examiner
Art Unit 2816

mrw